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EXAMINER

COSIMANO, EDWARD R

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2863

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/562,499

Applicant(s)DA SILVA NETO, EUGENIO
FERREIRA**Examiner**

Edward R. Cosimano

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 June 2007.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 9,11-13 and 15-17 is/are pending in the application.
- 4a) Of the above claim(s) none is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 9,11-13 and 15-17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 25 June 2007 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- 1) ☒ Certified copies of the priority documents have been received.
 - 2) ☐ Certified copies of the priority documents have been received in Application No. _____.
 - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

1. The Oath/Declaration and amended Abstract as filed on 30 May 2006 are acceptable to the examiner.
2. Applicant's claim for the benefit of an earlier filing date pursuant to 35 U.S.C. 120 is acknowledged.
3. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.
4. The examiner has considered the prior art cited in the base applications.
5. In regard to the listing of claims submitted with the amendment of 25 June 2007, it is noted that applicant has incorrectly indicated the status of claim 16 as "New" when in fact the status of claim 16 should have been indicated as "Previously presented" because as can be seen from the listing of claims filed on 30 May 2006 and from the Office action mailed on 23 March 2007 claim 16 has been clearly presented in the instant application before the response filed on 25 June 2007.
6. Figures 1 & 2 of the set of drawings containing 1 sheet of 2 figures as presented in the set of drawings filed on 25 June 2007 are acceptable to the examiner.
 - 6.1 The examiner has approved the proposed changes to figure 2 of the drawings as filed on 25 June 2007.
7. The drawings filed on 25 June 2007 are objected to because:
 - A) The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the:
 - (1) "GPS module" that is connected to the microcontroller of claim 17; must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.
- 7.1 Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the

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drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

8. The disclosure is objected to because of the following informalities:

A) the disclosure lacks a statement of --I claim:--, as required by Office policy as set forth in MPEP 608.01(m).

8.1 Appropriate correction is required.

9. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

9.1 Claims 9, 11-13 & 15-17 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

9.1.1 In regard to claims 9 & 17, it is noted that as one of ordinary skill at the time the invention was made would reasonably interpret the language of the positively recited limitations of this claim, then one of ordinary skill at the time the invention was made would:

A) interpret the preamble of these claims to be a vague, indefinite, unclear and confusing recitation of both:

(1) a non-limiting intended field of use for what is recited in the remainder of the claim; and

(2) intended function of a "distribution unit" that is alleged to function as some sort of unspecified type of connector that is intended to connect a "field device" to a "field bus";

because the body of each of these claims fails to positively recite the use of any type of "process automation technology" in any combination with the "field bus" as set forth in the written description or the "field devices" and the body of each of these claims further

fails to positively recite that what is recited in the remainder of the claim is directed to the structure of the “distribution unit” as identified in the written description.

B) interpret the first positively recited structure of these claims to be a vague, indefinite, unclear and confusing recitation of a “field bus”, because the remainder of these claims fails to positively recite that the “field bus is in fact connected to anything other than the latter recited “microcontroller” as described by the written description;

C) interpret the second positively recited structure of these claims to be a vague, indefinite, unclear and confusing recitation of a “microcontroller” that is:

(1) connected between the field bus and a field bus” and that appears to provide the function of an interface between the “field device and the field bus”; and

(2) is connected to a latter recited “memory” and a latter recited “reader module” in claim 9; and

(3) is connected a later recited “GPS module” in claim 17;

since the microcontroller:

(1) in these claims functions to transmit unspecified data/information about an unspecified type of “field device” from an unspecified location to another unspecified location by using an unspecified type of communications link; and

(2) in claim 9 fails to either:

(2a) read or store any data/information in the recited “memory”; or

(2b) fails to control or use the recited “reader module” to perform any function; or

(2c) fails to recite that the invention would include the use of any “chip tags” at any location;

(3) in claim 17 fails to control or use the recited “GPS module” to perform any function;

because the remainder of these claims fails to positively recite that:

(1) the “field bus is in fact connected to anything but the latter recited “microcontroller”; and

(2) the source of the field device specific data/information that is to be transmitted by the controller is unclear; and

(3) the destination of the field device specific data/information that is to be transmitted by the controller is unclear; and

(4) the location and function of the recited "chip tags" is unclear (claim 9 only); and

(5) the function of either the "memory" (claim 9) or the "reader module" (claim 9) or the "GPS module" (claim 17) relative to achieving the desired utility of the invention that is a "field bus distribution unit" has not been specified in the claims so as to provide a single invention.

D) interpret the third positively recited structure of claim 9 to be a vague, indefinite, unclear and confusing recitation of a "memory" that is connected to the microcontroller because the remainder of the invention fails to positively recite:

(1) how the memory is connected to the microcontroller, for example by the "field bus"; and

(2) the "memory" would provide any type of function relative to the remainder of the claimed invention;

so that the invention as a whole would achieve a desired result of a "field bus distribution unit".

E) interpret the fourth positively recited structure of claim 9 to be a vague, indefinite, unclear and confusing recitation of a "reader module for reading chips-tags" that is connected to the microcontroller because the remainder of the invention fails to positively recite that:

(1) the claimed invention includes any type of "chip-tag structure" that is to be read"; and

(2) the "reader module" is controlled or would actually function in any manner to read the "chip tags"; and

(3) either the "reader module" or the "chip-tags" would provide any type of function relative to the remainder of the claimed invention;

so that the invention as a whole would achieve a desired result of a "field bus distribution unit".

F) interpret the third positively recited structure of claim 17 to be a vague, indefinite, unclear and confusing recitation of a "GPS module" that is connected to the microcontroller because the remainder of the invention fails to positively recite that the "GPS module" would provide any type of function relative to the remainder of the claimed invention so that the invention as a whole would achieve a desired result of a "field bus distribution unit".

In view of the vague, indefinite, confusing and unclear relationships set forth above, as these claims would reasonably be interpreted by one of ordinary skill at the time the invention was made, see above, then one of ordinary skill at the time the invention was made would find:

A) it to be unclear how the "field bus distribution unit" that is recited in the preamble of this claim would relate to what is recited in the remainder of the claim;

B) it unclear how the "field bus" that is positively recited as being connected only at one end could act as any type of communications link as suggested by the preamble and as suggested by the function of positively recited "microcontroller";

C) it unclear how the "microcontroller" that is positively recited as being connected between a "field bus" and a "field device" could function as either as an interface or a transmission machine/process that functions to communicate data/information to an unspecified destination because only this device is structurally connected at one end of the "field bus" and the claims fail to recite to where or for what purpose the data/information is to be transmitted by this microcontroller;

D) it unclear how either the "memory" or "reader module" of claims 9, 11-13 & 15 that are positively recited as being connected to the "microcontroller" would function in the claimed invention because as recited neither:

(1) the positively "memory"; nor

(2) the positively recited "reader module"; nor

(3) the positively recited suggestion of "chip tags" that does not specify either (3a) the actual presence of any "chip-tags" or (3b) the location of the suggested "chip-tags" in the recited invention;

perform any function that one of ordinary skill at the time the invention was made would recognize as contributing to achieving a function that is associated with the remainder of the claimed invention or a “field bus distribution unit”; and

E) it unclear how the “GPS module” of claim 17 that is positively recited as being connected to the “microcontroller” would function in the claimed invention so that the invention as a whole would perform any function that one of ordinary skill at the time the invention was made would recognize as contributing to achieving a function that is associated with the remainder of the claimed invention or a “field bus distribution unit”;

then, applicant has failed to particularly point out and distinctly claim the invention.

9.1.1.1 In regard to the above, note that one of ordinary skill would not be able to ascertain either: (1) what applicant intends as being included as part of the claimed invention; or (2) what the inventor’s contribution to the prior art is and hence the scope of the claim, In re Larsen, No. 01-1092 (Fed. Cir. May 9, 2001) (unpublished) “The court observed that the totality of all the limitations of the claim and their interaction with each other must be considered to ascertain the inventor’s contribution to the art. Upon review of the claim in its entirety, the court concluded that the claim at issue apprises one of ordinary skill in the art of its scope and, therefore, serves the notice function required by 35 U.S.C. 112 paragraph 2.”.

9.1.1.2 It is further noted in regard to claims 11, 13 & 15, that this claim merely further limits the nature of the recited “chip tags” (claim 11) the nature of the “device specific data/information (claim 13) and the nature of the field bus (claim 15) but none of these claims solve the noted problems of base claim 9 for claims 11 & 15 or base claim 12 for claim 13. Therefore, applicant has failed to particularly point out and distinctly claim the invention.

9.1.2. In regard to claim 12, it is noted that since this claim fails to end in a “.”, then one of ordinary skill at the time the invention was made would be confused as to whether or not there is anything else to be recited as the claimed invention and therefore can not determine the scope of the invention of claim 12. Therefore, applicant has failed to particularly point out and distinctly claim the invention.

9.1.3 In regard to claim 16, as one of ordinary skill at the time the invention was made would interpret this claim the recited invention is a cable with an attached “chip-tag” that functions to

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store device specific data/information about a field device. However, because one of ordinary skill at the time the invention was made would recognize:

A) that the cable alone, that is with out the memory, would achieve the function of a "connecting cable" as recited in the preamble, then one of ordinary skill at the time the invention was made would be confused in regard to the vague, indefinite and unclear as to what function would be provided by the recited "chip-tag" relative to the remainder of the invention so that the invention as a whole would function as a single invention that provides the useful and beneficial function of a connecting cable.

B) that because the preamble recites that there are more than one field device that the cable may be connected, then the reference to the "chip-tag" providing the function of storing device specific data/information about a field device is vague, indefinite and unclear in regard to which of the "device specific data/information about a field device" is stored in the "chip-tag" attached to a cable so that the invention as a whole would function as a single invention that provides the useful and beneficial function of a connecting cable.

9.1.4 In view of the above noted problems with the invention of claims 9, 11-13 & 15-17, one of ordinary skill at the time the invention was made would be confused by how the vague, indefinite and unclear combination of devices in these claims would function as a whole in order to achieve a single invention that would function to provide an invention that one of ordinary skill at the time the invention was made would recognize as providing the useful and beneficial utility of a "field bus distribution unit" in claims 9, 11-13, 15 & 17, or a "connecting cable" in claim 16. Therefore, applicant has failed to particularly point out and distinctly claim the invention.

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary

skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10.1 Claims 9, 11-13, 15 & 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over either Pickett (4,949,299) or Beaverstock et al (5,134,574) or Warrior et al (5,485,400 or 5,825,664) or Sugihara et al (6,035,247) as applied above to claims 9 & 15 and further in view of either Palmer et al (5,530,702) or Oba et al (2004/0248617).

10.1.1 In regard to claims 9, 11-13 & 15, either Pickett ('299) or Beaverstock et al ('574) or Warrior et al ('400 or '664) or Sugihara et al ('247) disclose a machine/process that provides the useful and beneficial function of a distributed control communications network. In these machines/processes one or more uniquely identified computer implemented field devices units or field distribution devices, are connected to a central unit or "automation technology" via a common communications bus or "field bus" by using a common communications protocol in order to exchange and distribute data/information between the field devices and the central unit. Further, in these machines/processes, the field distribution unit performs the functions of receiving a control command via the common bus from the central controller unit and then based on the received command performs the function of functions that are associated with the received command. The functions that maybe perform include at least (A) transmitting of data/information from a memory in the field distribution to the central controller, where the transmitted data/information includes an unique device specific identifier for the transducer, (B) controlling the operation of one or more of the transducers that are connected to the field distribution unit to make measurements, or (C) controlling the operation of one or more of the transducers that are connected to the field distribution unit by setting control points for the transducers.

10.1.2 It is noted that neither Pickett ('299) nor Beaverstock et al ('574) nor Warrior et al ('400 nor '664) nor Sugihara et al ('247) disclose the use of a RF ID tag to store device specific data/information about an associated item and the use of an tag reader, however, either Palmer et al ('702) or Oba et al ('617) discloses a machine/process that provides the useful and beneficial function of using a RF identification tag that has been attached to an item in order to transmit stored identification data/information about the item when requested by an appropriate RF tag reader. Since the machines/processes of either Pickett ('299) or Beaverstock et al ('574) or

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Warrior et al ('400 or '664) or Sugihara et al ('247) requires the use of some type of memory to at least store the device specific identification data/information and either Palmer et al ('702) or Oba et al ('617) discloses that it is known to use a RF identification tag that is attached to an item is used to transmit stored identification data/information about the item to a reader when required, it would have been obvious to one of ordinary skill at the time the invention was made that the machines/processes of either Pickett ('299) or Beaverstock et al ('574) or Warrior et al ('400 or '664) or Sugihara et al ('247) could be modified to use RF ID tags to store identification data/information about an item and then transmit the stored data/information upon request as taught by either Palmer et al ('702) or Oba et al ('617). In this regard it is noted that the application or use of a known process/machine to another machine/process or a variation of the machine/process for the same purpose to achieve the same results is deem obvious, note KSR International Co. v. Teleflex Inc., 82 USPQ2d 1385 (U.S. 2007) 127 SCt 1727.

10.1.3 In regard to claim 16, it is noted that since either Palmer et al ('702) or Oba et al ('617) provide a teaching/suggestion that the item that is associated with the RFID tag could be any item with the RF tag suitably placed on the item, it would have been further obvious to one of ordinary skill at the time the invention was made that the machines/processes of either Pickett ('299) or Beaverstock et al ('574) or Warrior et al ('400 or '664) or Sugihara et al ('247) as modified to use RF ID tags could be applied to any suitable part of the item, for example a communication adapter/interface port, etc. In this regard it is noted that the application or use of a known process/machine to another machine/process or a variation of the machine/process for the same purpose to achieve the same results is deem obvious, note KSR International Co. v. Teleflex Inc., 82 USPQ2d 1385 (U.S. 2007) 127 SCt 1727.

11. Response to applicant's arguments.

11.1 The objections and rejection that have not been repeated here in have been over come by applicant's last response.

11.1.1 In regard to the alleged amendment to page 7 of the original filed written description. It is noted that the original written description does not have a page 7 and further that the new listing of claims as filed on 25 June 2007 does not include the required phrase "I claim" or some equivalent wording, this objection has been maintained by the examiner.

11.2 How Claims are to be interpreted during the prosecution of an application for patent.

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11.2.1 The pending claims are interpreted by giving the language of every positively recited limitation of the pending claims the broadest reasonable interpretation that is consistent with how one of ordinary skill at the time of the invention would have interpreted the language of the claims, In re Cortright, 165 F.3d 1353, 1359, 49 USPQ2d 1464, 1468 (Fed. Cir. 1999), while (1) taking into account whatever enlightenment by way of definitions or otherwise that may be afforded by the written description contained in applicant's specification, In re Morris, 127 F.3d 1048, 1054-55, 44 USPQ2d 1023, 1027-28 (Fed. Cir. 1997), and (2) without reading unrecited limitations from applicant's disclosure into the claims, see In re PRATER AND WEI, 162 USPQ 541 at 551 (CCPA 1969) "We are not persuaded by any sound reason why, at any time before the patent is granted, an applicant should have limitations of the specification read into a claim where no express statement of the limitation is included in the claim.", In re PRATER AND WEI, 162 USPQ 541 at 551 (CCPA 1969).

11.2.2 Further, when interpreting the claims as a whole, then the interactions of claim limitations as a whole must be considered in order to determine the scope of a claim and the applicant's contribution in the art, In re LARSEN, No. 01-1092 (Fed. Cir. May 9, 2001) (unpublished) "The court observed that the totality of all the limitations of the claim and their interaction with each other must be considered to ascertain the inventor's contribution to the art.". Where a statutory process/machine must contain an operative series of acts/functions or structures, In re MUSGRAVE, 167 USPQ 280 at 289-290 (CCPA 1970), with explicitly recite all of the necessary interactions to accomplish the recited utility of the claimed invention, for without these interaction the claim as a whole would not be a proper process/machine under the statute, In re SARKAR 200 USPQ 132 at 136 (CCPA 1978).

11.2.3 In regard to the limitations on the interpretation of the claimed invention as imposed by the Court, because it is noted that applicant has gone to great lengths in the written description to describe each of the claimed structures or actions recited in the limitations of the claimed invention by using a written description that:

A) does not describing a specific structure or a specific action to provide a recited function; and

B) merely describing the claimed structures or actions by describing the function of each of the claimed structures or actions;

then, it is noted that as set forth by the Court each of the limitations of the claims would be reasonably interpreted by one of ordinary skill at the time of the invention as not being not limited solely to the structures or actions that would correspond to the written description of the claimed structures or actions. Therefore, in fact the limitations of the claims would to be broadly interpreted by one of ordinary skill at the time the invention was made to include any and all structures or actions that would provide the corresponding functions that have been recited for the structures or actions that are recited in the limitations of the claimed invention.

11.2.4 As a final note, although it is conceivable that one of ordinary skill may know many different actions/structures that would achieve the functions of the structures and actions recited as claimed invention, since the claims fail to positively recite the actual structures or actions that are used in the claimed invention, then one of ordinary skill at the time the invention was made would have recognized that any type of structure or action that would achieve the recited function could be used without being limited to the disclosed structures and/or actions that are not recited and therefore may not be attributed to the claimed invention.

11.3 In regard to the rejection of claims 9, 11-13 & 15-17 under 35 U.S.C. 112 2nd paragraph and the rejection of claims 9, 11-13, 15 & 16 under 35 U.S.C. 103, applicant's arguments are deem non persuasive and this rejection has been maintained in view of the respective modified rejection as set forth above and the following considerations.

11.3.1 In regard to applicant's arguments regarding the nature of the subject matter recited as the invention and the functions/acts that as recited in the claims are performed by the instant invention. It would appear that applicant has not considered what the knowledge of one of ordinary skill would be regarding the claimed invention, how one of ordinary skill would interpret the limitations of the claimed invention, and has read constraining limitation from the disclosure into the claims, which is a practice that the Court has instructed the Patent Office not to do, see In re PRATER AND WEI, 162 USPQ 541 at 551 (CCPA 1969).

11.3.2 In regard to the rejection of claims 9, 11-13 & 15-17 under 35 U.S.C. 112 2nd paragraph, because applicant's arguments are based on unclaimed distinctions and merits that do not appear in the language of the claims as a positively recited limitation of the claimed invention, the argued merits and distinctions may not be attributed to the claimed invention and applicant's arguments are deemed non-persuasive.

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11.3.3 In regard to the rejection of claims 9, 11-13, 15 & 16 under 35 U.S.C. 103, applicant's arguments are deemed non-persuasive and this rejection has been maintained in view of the respective modified rejection as set forth above and the following considerations.

11.3.4 In regard to distinguishing the invention recited as a machine in claims 9, 11-13 & 15 and as an article/machine in claim 16 from the teachings/suggestions of the applied prior art. It is noted that claims 9, 11-13, 15 & 16 recite a machine as the claimed invention and therefore must be distinguished over the prior art by the structure recited as the claimed invention and not the functions/acts performed by the claimed invention, see MPEP sections 2111, 2112 & 2114.

11.3.5 With the above in mind, because one of ordinary skill at the time the invention was made would reasonably interpret the language used in the limitations of the pending claims, as provided by the non-limiting guidance of applicant's disclosure, to include any and all structures/actions that could perform the functions that are recited as the invention. Therefore, the machine of claims 9, 11-13 & 15 or the manufacture/article of claim 16, as recited in the pending claims would merely convey to one of ordinary skill at the time the invention was made that applicant has merely recited:

A) a preamble that recites a non-limiting intended field of use for the process/structure of claims 9, 11-13, 15 & 16, since what is recited as the preamble would not be recognized as imparting any limiting action/structure to what is described in the body of the claim and hence does not go beyond a statement of the intended field of use of the claimed invention, see MPEP sections 2111, 2112 & 2114.

B) a series of one or more actions/structures in claim 9, 11-13, 15 & 16 that are set forth by merely reciting a name and one or more associated actions/functions without reciting the specific details of how each of the recited actions/functions are to be performed by the recited invention and hence, the claims fail to positively recite a limitation that would restrict what one of ordinary skill at the time the invention was made would recognize as the structure/action that is used to perform the recited function beyond any structure/action that would perform the recited acts/functions. Therefore, one of ordinary skill at the time the invention was made would recognize that these limitations would be interpreted as merely conveying/imparting that an unspecified

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someone or something is to perform one or more actions/functions in an unspecified manner, see MPEP sections 2111, 2112 & 2114.

11.3.6 In view of the above and as set forth above in the rejection the examiner's use of the applied prior art would be clearly recognized by one of ordinary skill in the art at the time the invention was made as:

A) providing a teaching or suggestion of every action/structure to perform the one or more functions that are recited as the invention in a manner that is consistent with how one of ordinary skill at the time the invention was made would have interpreted both: (1) the instant claims and disclosure, and (2) the teachings of the prior art with the aid of any guidance provided by the instant disclosure.

Where contrary to applicant's arguments, the applied prior art would teach or suggest what would be clearly recognized by one of ordinary skill in the art at the time the invention as being what is recited as the claimed invention regardless of whether or not:

A) that the purpose of the prior art is different than what is disclosed/claimed; or

B) the manner in which data/information that is processed/displayed in the prior art different than what is disclosed.

It noted that as set forth in MPEP 2123(II) the mere fact that an invention that contains of the recited structures or process acts, see above, but is for a different purpose does not render the claimed invention as either not "anticipated" or "unobvious" in view of the applied prior art. Further, it is noted that the data/information that is processed/displayed as recited in machine claims 9, 11-13, 15 & 16 does not affect the operation of the structures that are recited as the invention in machine claims 9, 11-13, 15 & 16. Hence the data/information that is process and displayed is "non-functional descriptive material" that may not be used to render a claimed invention that otherwise is either "anticipated" or "obvious" as either not "anticipated" or "unobvious", see "Cf. In re GULACK, 703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir. 1983) (when descriptive material is not functionally related to the substrate, the descriptive material will not distinguish the invention from the prior art in terms of patentability).".

12. The following is a statement of reasons for the indication of allowable subject matter over the prior art:

A) however, the prior art does not fairly teach or suggest in regard to claim 17 a machine in claim 17 that provides the useful and beneficial function of an interface for a field bus by providing structures in claim 17 that perform at least the functions of:

(1) a microcontroller that is connected between a field device and a field bus and is connected to a GPS (global positioning system) module and function to communicate field device specific data/information including an identification of the field device and the position of the field device from the GPS module as described in the written description.

13. The examiner has cited prior art of interest, for example:

A) Shoup et al (4,831,558) discloses a machine/process that provides the useful and beneficial function of distributed data/information collection and control network in which one or more uniquely identified intelligent transducer devices are connected to a central unit via a common communications bus through the use of a common communications protocol. In this machine/process any one or more of the at least one transducer will perform a function that is indicated by a control command that has been received over the common bus from the central controller, where the control command may instruct the transducer unit to acquire and/or transmit of data/information from the transducer to the central unit where the transmitted data/information includes an unique identifier for the transducer.

B) either Yamazaki (2005/0027828) or Ashwood Smith (6,968,994) disclose a machine/process that provides the useful and beneficial function of using a RF identification tag that has been attached to an item transmit stored identification data/information about the item to a reader.

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Edward R. Cosimano whose telephone number is 571-272-0571. The examiner can normally be reached on 571-272-0571 from 7:30am to 4:00pm (Eastern time).


14.1 If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Barlow, can be reached on 571-272-2269. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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14.2 Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

ERC

09/08/2007


Edward Cosimano
Primary Examiner